

SECOND REGULAR SESSION

SENATE BILL NO. 564

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3646S.011

AN ACT

To repeal sections 135.327 and 135.329, RSMo, and to enact in lieu thereof two new sections relating to adoption tax credits, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.327 and 135.329, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 135.327 and 135.329, to
3 read as follows:

135.327. 1. Any person residing in this state who legally adopts a special
2 needs child on or after January 1, 1988, and before January 1, 2000, shall be
3 eligible to receive a tax credit of up to ten thousand dollars for nonrecurring
4 adoption expenses for each child adopted that may be applied to taxes due under
5 chapter 143, RSMo. Any business entity providing funds to an employee to
6 enable that employee to legally adopt a special needs child shall be eligible to
7 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
8 expenses for each child adopted that may be applied to taxes due under such
9 business entity's state tax liability, except that only one ten thousand dollar
10 credit is available for each special needs child that is adopted.

11 2. Any person residing in this state who proceeds in good faith with the
12 adoption of a special needs child on or after January 1, 2000, shall be eligible to
13 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
14 expenses for each child that may be applied to taxes due under chapter 143,
15 RSMo; provided, however, that beginning on or after July 1, 2004, a minimum of
16 fifty percent of the tax credits allowed shall be allocated for the adoption of
17 special needs children who are residents or wards of residents of this state at the
18 time the adoption is initiated. Any business entity providing funds to an

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 employee to enable that employee to proceed in good faith with the adoption of
20 a special needs child shall be eligible to receive a tax credit of up to ten thousand
21 dollars for nonrecurring adoption expenses for each child that may be applied to
22 taxes due under such business entity's state tax liability, except that only one ten
23 thousand dollar credit is available for each special needs child that is adopted.

24 3. Individuals and business entities may claim a tax credit for their total
25 nonrecurring adoption expenses in each year that the expenses are incurred. A
26 claim for fifty percent of the credit shall be allowed when the child is placed in
27 the home. A claim for the remaining fifty percent shall be allowed when the
28 adoption is final. The total of these tax credits shall not exceed the maximum
29 limit of ten thousand dollars per child. The cumulative amount of tax credits
30 which may be claimed by taxpayers claiming the credit for nonrecurring adoption
31 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
32 dollars and shall not exceed four million dollars in any one fiscal year beginning
33 on or after July 1, 2004; provided, however, that [in the first ninety days] **as of**
34 **April fifteenth** following each July first, if less than two million dollars in
35 credits have been issued for adoption of special needs children who are [not]
36 residents or wards of residents of this state at the time the adoption is initiated,
37 the remaining amount of the four million dollar cap shall be available for the
38 adoption of special needs children who are **not** residents or wards of residents of
39 this state at the time the adoption is initiated.

40 4. Notwithstanding any provision of law to the contrary, any individual
41 or business entity may assign, transfer or sell tax credits allowed in this
42 section. Any sale of tax credits claimed pursuant to this section shall be at a
43 discount rate of seventy-five percent or greater of the amount sold.

44 5. The director of revenue shall establish a procedure by which, for each
45 fiscal year, the cumulative amount of tax credits authorized in this section is
46 equally apportioned among all taxpayers within the two categories specified in
47 subsection 2 of this section claiming the credit in that fiscal year. To the
48 maximum extent possible, the director of revenue shall establish the procedure
49 described in this subsection in such a manner as to ensure that taxpayers within
50 each category can claim all the tax credits possible up to the cumulative amount
51 of tax credits available for the fiscal year.

52 6. The director of revenue shall submit to the general assembly, by
53 January 1, 2005, and each succeeding year, information by income levels of those
54 individual taxpayers who have qualified and claimed the credit authorized in this

55 section, regardless of whether those taxpayers have assigned, transferred, or sold
56 such credits. The information shall indicate the number of such taxpayers [with
57 federal adjusted gross income in the immediately preceding tax year of less than
58 one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and
59 including one hundred ninety thousand dollars, and of more than one hundred
60 ninety thousand dollars] **in each income limitation set forth in the federal**
61 **adoption tax credit law, 26 U.S.C. Section 23, as amended.**

135.329. No credit shall be allowable for that portion of the nonrecurring
2 adoption expenses for which a credit is allowable and taken under any similar
3 provision of federal, state, or local law. Credit may be taken up to the amount
4 allowable under section 135.327 for that portion of the nonrecurring adoption
5 expenses which exceed the credit taken under such other provision of federal,
6 state or local law. If there is a deduction allowable and taken under any other
7 provision of federal, state or local law which is similar to the credit allowable
8 under section 135.327, the credit allowable for nonrecurring adoption expenses
9 shall be reduced by the amount of the decrease in the tax liability resulting from
10 taking such deduction. No credit shall be allowable for that portion of the
11 nonrecurring adoption expenses paid from any funds received under any federal,
12 state, or local program. **The credit allowable for nonrecurring adoption**
13 **expenses shall be reduced to the same degree that the federal adoption**
14 **tax credit is reduced by the income limitation set forth in the federal**
15 **adoption tax credit law, 26 U.S.C. Section 23, as amended.**

Section B. Because of the need to facilitate the adoption of children,
2 section A of this act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act
5 shall be in full force and effect upon its passage and approval.

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